IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8790 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

C T CHAND

Versus

GUJ AGRI. UNIVERSITY

Appearance:

MR MN MEHTA for Petitioner

MR IS SUPEHIA for Respondent No. 1

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 17/02/2001

ORAL JUDGEMENT

By means of this petition, the petitioner claims that the petitioner's promotion on the post of Assistant Professor given on 20th May, 1974 may be given weightage for the pay scale as given to Mr. A.N.Mehta on

the same post on 19.5.75, namely Rs.1200-1900 and difference may be paid to the petitioner from 20th May, 1974 with interest at the rate of 12% per annum till the date of payment within three months by the University authorities.

2. The petitioner was appointed as a lecturer by an order dated 4th November, 1969 in the pay scale of Rs.260-420 in the Dairy Science College, Anand run by the Institute of Agriculture at Anand. Gujarat Agricultural University came into existence with effect from 1.6.72 and the Institute of Agriculture, Anand was merged in the said university with effect from 1.6.72. After the merger, the petitioner became an employee of Gujarat Agricultural University as a lecturer under section 52 of the Gujarat Agricultural Universities Act and he was absorbed in the pay scale of Rs.260-420 which was subsequently revised to Rs.325-575 retrospectively from the date of his joining the post. Till UGC pay scales came into existence, there were following categories of teachers in the Gujarat Agricultural University since 1.6.72.

1. Lecturer/Instructor Rs. 325-575
2. Assistant Professor and equivalent post Rs. 350-850
3. Professor of equivalent post Rs. 500-1200

The petitioner was promoted to the post of Assistant Professor in the pay scale of Rs.350-850 by an order dated 17.5.74. The said promotion was subsequently regularised vide order dated 23rd February, 1978. After the establishment of the Gujarat Agricultural University, it was decided to extend the benefits of UGC pay scales to the teachers of the university and by a notification dated 9th April, 1974, 4th UGC pay scales were made applicable to the teachers of Gujarat Agricultural University with effect from 1.6.72 as under:

1. Lecturer/Instructor Rs.325-575
2. Assistant Professor and Equivalent Rs.350-850
3. Professor and Equivalent Rs.500-1200

3. Consequent upon the introduction of UGC pay scales for the first time in the University with effect from 1.6.72, the rules of eligibility were laid down by the Board of Management and notified by a letter dated 25th/27th September, 1975. As per the criteria

laid down in the said notification, the petitioner who was in the pay scale of Rs. 325-575 as on 1.6.72 was placed in the UGC pay scale of Rs.300-600 with effect from 1.6.72. Accordingly, that eligibility criteria laid down, the teachers in the Agricultural university were placed in appropriate UGC pay scales as per the said criteria with effect from 1.6.72. Some posts of Assistant Professors in the pre-revised pay scale of Rs.350-850 and some posts of Professors in the pre-revised pay scale of Rs.500-1200 were converted into Associate Professors and its equivalent posts in the pay scale of Rs.700-1250. The criteria laid down by the letter dated 25th/29th September, 1975 was approved by the Board of Management and teachers were placed in the appropriate UGC pay scales. The petitioner was eligible for UGC pay scale of Rs.300-600 with effect from 1.6.72 and one Mr. A.N.Mehta was given the pay scale of Rs.700-1250 from 1.6.72 for being treated as Associate Professor. The UGC pay scales of 4th plan were further revised in 5th plan with effect from 1.1.73 vide GR dated 21st February, 1977 and the pay scales of the following posts were revised as under:

1. Lecturer Rs.700-1600
2. Assistant Professor Rs.1200-1900
3. Professor and its equivalent Rs. 1500-2500

4. The petitioner alongwith 24 other teachers challenged the decision of the University under which the pay scale of Rs.700-1600 sanctioned to the Instructor/Lecturer instead of Rs.400-950 by filing Special Civil Application no. 962 of 1997. That petition was allowed and a mandamus was issued to the respondent University directing it to give UGC pay scale of Rs.400-950 to the petitioner with effect from 1.6.76 and grant of all other benefits attached to the said pay scale within three months from the date of receipt of the writ of the court vide this Court's judgment dated 22nd September, 1983. The judgment of the learned Single Judge was challenged before the appellate bench in LPA NO.350 of 1983. This Court vide its judgment dated 16th September, 1994 dismissed the LPA and confirmed the findings of the learned Single Judge arrived in the Special Civil Application. This Court treated Assistant Professor and Lecturer in one grade. Pursuant to the GR dated 5th March, 1979 the petitioner was granted revised pay scale of Rs.700-1600 with effect from 1.1.73. By this petition, the petitioner has claimed that as stated

in the affidavit-in-rejoinder that he was a Lecturer and Mr. A.N.Mehta was Assistant Professor at Dairy Science College, Anand prior to 1.6.72. The petitioner was given the promotion on 20th May, 1974. Before promotion, he was drawing the salary in the UGC pay scale of Rs.700-1600 of Assistant Professor with effect from 1.1.73. On promotion, he ought to have been placed on the next higher UGC grade of Rs.1200-1900 of the next higher post of Associate Professor. The promotion was given to him on the basis of seniority cum selection after interview by the selection committee and that selection was subsequently regularised. Hence, he was entitled to get the pay scale of middle category from 20th May, 1974. On the basis of the promotion to the post of Assistant Professor, the Assistant Professors are being given UGC pay scale of Rs.1200-1900 with effect from 1.1.73. Mr. A.N.Mehta was the Assistant Professor and he had taken over the chrge from him of the post of Assistant Professor on promotion on 20th May, 1974. He was given the UGC pay scale of Rs.1200-1900 of Associate Professor with effect from 1.1.73. Hence, the petitioner is also entitled for the same higher pay scale and difference of salary.

5. Affidavits have already been exchanged.
Heard the learned counsel for the parties and perused the relevant papers on record.

6. In the facts and circumstances of the case, the claim of the petitioner is not sustainable in the eye of law, inasmuch as the petitioner now claiming the pay scale of promotional post of Mr. A.N.Mehta, the post of Lecturer and the Assistant Professor has been merged into one and 4th category of instructors has been abolished by this Court in Special Civil Application no. 962 of 1977 as stated above. Had the petitioner not been given the promotion revised pay scale of promotional post of Mr. A.N.Mehta, he had an opportunity to raise that question before this Court when the above Special Civil Application was heard and decided on 22nd September, 1983. The petitioner claims that he was promoted from the post of Lecturer to the post of Assistant Professor on 20.3.74. That grievance could have been decided by this Court while deciding the above Special Civil Application. However, he had not raised that question and the posts of Lecturer and Assistant Professor have been merged into one for the purpose of pay scale granted to them. From the papers, it also appears that the petitioner filed another petition being Special Civil Application no. 2437 of 1988 which was decided on 15.4.96 and the petitioner's claim regarding parity in

the pay scale with other respondents in that petition has been rejected.

7. In the facts and circumstances of the case, I do not find any substance in the present petition. Accordingly, this petition is dismissed. Rule is discharged with no order as to costs.

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